

### **REMARKS**

Reconsideration of the application is respectfully requested.

Claims 38-49 are in the application. Claims 38-49 stand rejected in the final Office Action. Claim 1-37 have been previously cancelled.

Applicant appreciatively acknowledges the Examiner's consideration of the arguments presented in the Applicant's Response mailed January 10, 2006 and The Examiner's withdrawal of the rejection of claims 42 and 48 under 35 U.S.C. §112, first paragraph.

### **CLAIM REJECTIONS - 35 U.S.C. § 102**

In "Claim Rejections – 35 USC § 102," item 5 on page 3 of the above-identified final Office Action, claims 38-41, 43-47, and 49 have been rejected as being fully anticipated by U.S. Patent No. 6,349,329 to *Mackintosh et al.* (hereinafter "Mackintosh") under 35 U.S.C. § 102(e). Applicant respectfully traverses.

Claim 38 recites a "Web browser application for an Internet-connectable audio-player device, comprising:

a mechanism for invoking a Universal resource Locator (URL) of an accessible site on the Internet; and

functionality for reading embedded code in the site to find a link to downloadable audio content;

wherein the browser determines a link is a link to downloadable audio content by presence of code for initiating an audio player application."

In contrast, Mackintosh merely teaches a method for providing supplemental material to include with broadcast material. The broadcast material of Mackintosh may, for example, comprise a radio broadcast delivered from a service provider to a user terminal via the Internet. Program data, such as a song identification or type, or radio station identification, may be provided to the user terminal along with the radio

broadcast. Upon receiving the broadcast material and program data, the user terminal may provide the user with the broadcast material and may use the program data to retrieve information, such as a URL, pertaining to supplemental materials from a data server. The data server may use the program data to determine a URL identifying a location from where the user terminal may retrieve supplemental materials. The supplemental materials may include images, videos, audios, text or other data, which may be played/displayed to the user concurrently with the broadcast material. The data server may then provide the URL to the user terminal, which may use the URL to retrieve the supplemental material.

Even assuming for the sake of argument that the data server of Mackintosh reads on “an accessible site on the Internet,” Mackintosh fails entirely to disclose, expressly or inherently, “reading embedded code” in the data server to find “a link to downloadable audio content” and determining that the “link is a link to downloadable audio content by presence of code for initiating an audio player application.”

Mackintosh simply does not disclose the reading of embedded codes. The user terminal of Mackintosh does not read anything on the data server, much less read embedded codes. The user terminal merely provides information and receives information. Further, even if the functionality is implemented as a distributed process, with the data server performing the read operation, Mackintosh still fails to disclose “reading embedded code,” as is claimed in claim 38. The data server of Mackintosh simply reads data to determine a URL. Nothing in Mackintosh discloses, expressly or inherently, the reading of “embedded codes,” by the data server.

Even assuming for the sake of argument that providing program data and receiving a URL somehow reads on reading embedded codes to find a link (a point with which Applicant vigorously disagrees), Mackintosh fails to disclose, expressly or inherently, determining that the URL/link is a link to downloadable audio content by presence of code for initiating an audio player application. Mackintosh does not teach any sort of determination regarding what type of supplemental material the URL links to,

much less a determination based on the “presence of code for initiating an audio player application.” Nothing in Mackintosh even discusses looking for audio player application initialization codes, or using such codes in any fashion.

Accordingly, Mackintosh fails to anticipate at least the required recitations of claim 38 of “functionality for reading embedded codes in the site to find a link to downloadable audio content” and determining “a link is a link to downloadable audio content by presence of code for initiating an audio player application.” Since §102 rejections require clear, unequivocal anticipation of the required limitations, and Mackintosh fails to meet this standard, claim 38 is patentable over Mackintosh.

Claim 44 includes language similar to that of claim 38, directed to a method of the present invention. Accordingly, claim 44 is patentable over Mackintosh for at least the same reasons as claim 38.

Furthermore, claims 39-41, 43, 45-47, and 49 depend from claims 38 and 44, incorporating their limitations, respectively. Therefore, claims 39-41, 43, 45-47, and 49 are patentable over Mackintosh for at least the same reasons as claims 38 and 44.

#### **CLAIM REJECTIONS - 35 U.S.C. § 103**

In “Claim Rejections – 35 USC § 103,” item 6 on page 5 of the above-identified final Office Action, claims 42 and 48 have been rejected as being unpatentable over Mackintosh in view of U.S. Patent No. 6,012,086 to *Lowell* (hereinafter “Lowell”) under 35 U.S.C. § 103(a). Applicant respectfully traverses.

Lowell fails to cure the above discussed deficiencies of Mackintosh. Therefore, claims 38 and 44 remain patentable over Mackintosh even when combined with Lowell.

Claims 42 and 48 depend from claims 38 and 44, respectively, incorporating their limitations. Accordingly, claims 42 and 48 are patentable over Mackintosh combined with Lowell under §103(a).

**CONCLUSION**

In view of the foregoing, Applicant submits that claims 38-49 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with this paper, the Commissioner is authorized to charge Deposit Account 500393.

Respectfully submitted,  
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Date: June 14, 2006

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